

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
CLARKSBURG DIVISION

**FILED**  
NOV 16 2011  
U.S. DISTRICT COURT  
CLARKSBURG, WV 26301

\_\_\_\_\_  
MOUNTAIN STATE MECHANICAL  
INSULATION, INC.,

Plaintiff,

v.

BELL CONSTRUCTORS, LLC,

Defendant.  
\_\_\_\_\_

Civil Action No. 1:11 CV 180

(Removed from Harrison County Circuit Court  
Formerly Case No. 11-C-461-1)

**NOTICE OF REMOVAL**

1. Defendant Bell Constructors, LLC, the sole defendant, by counsel petitions this Court pursuant to 28 U.S.C. §§ 1332 and 1441 for removal to this Court of this action currently pending in the Circuit Court for Harrison County, West Virginia, Case No. 11-C-461-1. In support of its petition, this defendant states as follows:

2. Plaintiff has brought an action alleging violations of federal law and regulations, including alleged violations of the Small Business Act, 15 U.S.C. §§ 631, *et seq.*, the Federal Acquisitions Reform Act of 1995 and related regulations set forth in Titles 47 and 48 of the Code of Federal Regulations, and the Sherman Antitrust Act, 15 U.S.C. § 1. *See* Complaint, ¶¶ 25, 29, 30, 31, 32, 33, 34, 35 and 36. In addition, Plaintiff alleges state law claims for declaratory relief, alleged violation of state antitrust law, fraud, civil conspiracy and breach of contract. *See* Complaint, Counts I, III, IV, V and VI.

3. Plaintiff alleges that BELL had a contract with the United States to construct a Biometrics Technology Center for the Federal Bureau of Investigation ("FBI") in Clarksburg,

West Virginia (the “FBI Project”). *See* Complaint, ¶¶ 21, 55, 56, 57 and 58. All of Plaintiff’s alleged claims arise out of the alleged contract that BELL had with the United States. *Id.*<sup>1</sup>

4. This action is removable to this Court pursuant to 28 U.S.C. § 1441(a). This Court has jurisdiction over Plaintiff’s claims pursuant to 28 U.S.C. § 1332(a)(1), because Plaintiff has alleged that the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and because this action is between citizens of different states. Plaintiff is incorporated in and has its principal place of business in West Virginia. It is a matter of public record that BELL is incorporated under the laws of the State of Delaware and has its principal place of business in the State of New York. Attached as Exhibit 1 hereto is a Certificate issued by the Secretary of State of the State of West Virginia setting forth that BELL is organized under the laws of Delaware and has its principal place of business in the State of New York.

5. In addition, this action is removable to this Court pursuant to 28 U.S.C. § 1441(c). Plaintiff has alleged claims involving the laws of the United States. This Court has jurisdiction over such claims pursuant to 28 U.S.C. § 1331. To the extent that Plaintiff has joined state law claims with its claims involving the laws of the United States, this Court may determine all claims pursuant to 28U.S.C. § 1441(c).

6. Attached as Exhibit 2 to this Notice of Removal are copies of Plaintiff’s Complaint and the Summons issued to BELL, which constitute all process, pleadings and orders received by BELL in this action.

7. In accordance with 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Clerk of the Harrison County Circuit Court.

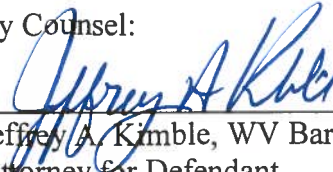
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<sup>1</sup> Plaintiff’s allegation that BELL has a contract with the United States to build the FBI project is untrue. It is a matter of public record that the United States awarded the contract for the FBI Project to Turner Construction Company. BELL has no ownership interest in Turner Construction Company and Turner Construction Company has no ownership interest in BELL; they are independent entities. Simply put, BELL is not the prime contractor. Given these and other facts, BELL is filing a Motion to Dismiss all of Plaintiff’s claims with prejudice.

Respectfully submitted,

BELL Constructors, LLC

By Counsel:



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Dated: November 16, 2011

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